

Utah! DIVISION of REAL ESTATE NEWS

*A publication for Utah's real estate,
appraisal, and mortgage professionals.*

Jon M. Huntsman, Jr., Governor • Francine A. Giani, Executive Director • Derek B. Miller, Division Director

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The Division and Real Estate Commission "Just Say No" To Convicts

The Real Estate Commission recently adopted rules that tighten qualifications to become a real estate licensee, or renew a real estate license.

New Real Estate License Applicants

With the introduction of these new rules, new applicants may not have been convicted of, entered a plea in abeyance, or completed any sentence of confinement due to any felony within five years preceding the application. In addition, any new applicant having been convicted of, entered a plea in abeyance to, or completed any sentence of confinement due to any misdemeanor involving fraud, misrepresentation, theft, or dishonesty within three years preceding the application, would also not qualify for a license. (see Administrative Rule R162.2.2.9)

Renewing Real Estate Licensees

Applicants for renewal may not have, during the term of the applicant's license...been convicted of, or entered a plea in abeyance to, a felony. (see Administrative Rule R162-2.2.10)

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Deadlines "Are You Being Realistic?"

As you know, paragraph 24 of the REPC deals with deadlines pertaining to the purchase contract. Offer and time for acceptance is contained in paragraph 25. Both of these sections require a licensee's thoughtful consideration, wisdom and experience.

The Division and Real Estate Commission express their concern that in many instances agents fail to give enough thought to the determination of critical contractual deadlines. Real estate licensees in far too many instances hold "overly optimistic opinions", or give little attention to the significance of offer and/or acceptance provisions, completion timeframes, and critical deadline provisions. Frequently holidays, weekends, and move-in schedules have not received adequate consideration by licensees.

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From the Director's Desk



Derek B. Miller

Beginning last Spring and into the early part of the Summer, the Division had the opportunity to visit a number of locations across the State. The turnout everywhere we went was higher than expected and it was a great opportunity to meet and speak with many of our licensees. These visits were part of the Division's annual "caravan", so named because of the multiple state cars traversing the highway.

I tend to think of these visits as the Division's "stockholders meetings". Many of you are aware of the concept of "stockholder meetings" in the private sector, where publicly-held companies host annual meetings, which any and all stockholders may attend and communicate their concerns and questions. These meetings allow the company to get feedback on what's going well and what's not. The company hears constructive criticism on how the company could be run better, from the stockholders perspective.

Of course, Division stocks are not traded on Wall Street (although the idea does make me wonder how Morningstar would rate the Division). But while the Division doesn't have "stockholders" we do have a number of "stakeholders" including each of you, our licensees. The Caravan was an excellent opportunity to hear from you; your challenges, your questions, what is working well, and how the Division could serve you better.

Although the staff did a fine job of providing useful training, truth be told I think we received more valuable information than we gave.

Let me share with you some of the reoccurring themes from our recent Caravan. While we didn't visit with all our licensees, or even a majority of our licensees, I am confident that these are common issues and shared concerns. The first deals with customer service at the Division. One of the attendees put the issue bluntly but kindly by asking, "Why can't I ever talk to a human when I call the Division? I always get someone's voicemail but can't even leave a message because the mailbox is full." I will tell each of you what I told the person asking the question: First and foremost, I recognize that this is a real problem. Although the Division depends on the State Legislature when it comes to funding and number of employees, there is a lot the Division can do that will impact our workload through improved processes and use of technology.

Based on suggestions from folks we met on the Caravan, the Division has made a number of improvements. I won't bore you with the management details, but the bottom line is that the Division (for the first time in a long time) is completely current on processing applications, renewals, and change cards. That means (with a few exceptions such as cases dealing with investigations or criminal backgrounds) your paperwork is being processed within one business day of being received at the Division. This one day period is astronomically better than the

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four-to-five week processing backlog that the Division had just a couple of months ago. It is also better than the Division's goal of five days (a goal which seemed like a "stretch" when we first set it). The credit for this miraculous feat belongs solely to very dedicated Division employees. In addition to processing your applications, renewals, and change cards more timely, this also means that you might actually have a live person pick up the phone the next time you contact the Division. And if you call while someone is on the line with another licensee, you can actually leave a message and have someone get back to you shortly.

We also had a number of licensees provide feedback on the complaint process and the Division has begun reengineering that process as well. Our intent is to simplify the way complaints are made. As I've said before, the complaint process is an invaluable method for the Division to receive information that helps us regulate licensees, both individually and collectively.

A second purpose for reengineering the complaint process is to improve how Investigators communicate with the person who is the subject of the complaint. Having a complaint made against you can be a stressful situation. Of course it is stressful if you know you're guilty of a serious violation and the Division is hot on your trail, but it is also stressful if you know you are innocent of the allegations and stand falsely accused. The Division is committed to improving communication during the investigation, as appropriate, so that licensees understand the nature of the complaint, the allegations, and what is expected of them to cooperate and resolve the investigation. You will hear more

from me in upcoming newsletters about how the complaint process is evolving and particularly how the Division uses this process to improve regulation.

There were many other helpful pieces of information we heard in our travels – too many to mention in this short message. For now, we have a year to work on the areas where we received feedback before we head out again next Spring to let you know how we've improved and hear from you on where we can focus our efforts next.

APPRAISERS PLEASE NOTE

Turn in your original CE and QE documents to the Division when you are applying for or renewing an appraiser license. If you want your original documents returned; send a self addressed, stamped envelope. The Division will return the original documents in the envelope provided. Thank you!

"Just Say No"

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For those with a criminal background but not "disqualified" for licensure or renewal based on the preceding requirements, the Division and Commission will consider necessary information a case by case basis to determine whether candidates meet the requirements of honesty, integrity, truthfulness, reputation and competency required for a new or renewed license.

Appraiser Education Reminders



Continuing Education

Licensed or certified appraisers who are renewing their licenses are required to provide proof of completion of 28 hours of continuing education taken during the preceding two years.

All appraisers must take the **7-hour National USPAP Update Course at least once every two years** in order to maintain a license or certification. In order to qualify as continuing education for renewal, the course must have been taken from an instructor who is a State-Certified Residential or State-Certified General Appraiser and has been certified by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation.

The following is a list of AQB Certified USPAP Instructors from Utah:

	<u>Effective Date</u>	<u>Expiration Date</u>
Allan J. Payne - CG	02/17/2005	06/30/2008
Maureen J Pendelton - CR	11/16/2004	06/30/2007
Barrett A. Slade, PhD - CG	07/01/2005	06/30/2007
Ronald M. Smith – CG	07/01/2005	06/30/2007
Phillip A. Snell Jr. - CG	07/01/2005	06/30/2007

Continuing education courses must be for a minimum of two hours in length. Courses that are taken more than once per renewal cycle **will only be given CE credit once**. Each course must maintain and increase the skill, knowledge and competency of the licensee in real estate appraising. The courses must meet the subject matter requirement of the AQB, which includes the following list of topics:

- | | |
|---|--|
| 1) Ad Valorem Taxation | 8) Property development |
| 2) Arbitration | 9) Real estate appraisal
(valuations/evaluations) |
| 3) Business Courses related to Practice of
real estate appraisal | 10) Real estate law |
| 4) Construction estimating | 11) Real estate litigation |
| 5) Ethics and standards of professional
practice | 12) Real estate financing and investment |
| 6) Land use planning, zoning related
computer and taxation | 13) Real estate appraisal related computer
applications |
| 7) Management, leasing, brokerage,
timesharing | 14) Real estate securities and brokerage,
timesharing syndication |
| | 15) Real property exchange |

Courses on these topics may be obtained from:

- | | |
|--|---|
| 1) Colleges or Universities | 4) State or Federal Agencies or commissions |
| 2) Community or Junior Colleges | 5) Proprietary Schools |
| 3) Real Estate Appraisal or Real
Estate related Organizations | 6) Other approved providers |

A non-inclusive list of appraiser continuing education courses is found on our website at www.realestate.utah.gov/appraiser_courses.pdf. Since appraiser continuing education courses are not required to receive advance Division approval, not all possible course offerings are found on the Division website. Many appraisal schools, etc., provide quality educational courses that are acceptable for CE despite not being advertised on our webpage. Please be sure that the courses you take fall under the AQB approved subject matter listing (see bottom of page 4) (or they cannot be accepted). When you renew your license, the Division will compare the courses you have taken to verify that there are no duplicate courses, that the courses have all been taken since your last renewal, and that all courses are a minimum of two hours in length and that they come from the AQB approved subject list.

On November 23, 2005 The Appraiser Licensing and Certification Board approved a rule that prevents appraisers from taking CE courses that have been approved for CE credit for real estate or mortgage licensees. The rule is presented below:

R162-103.7.5 – Courses that are approved for continuing education credit for real estate sales agents, real estate brokers, or mortgage officers licensed by the Division are not acceptable for appraiser continuing education credit unless the courses have been previously specifically approved by the AQB.

With the implementation of this rule appraisers are no longer allowed to take courses that have been specifically prepared for and certified to teach real estate and/or mortgage licensees (even if the course topic is a subject that has been approved for CE by the AQB). In other words, appraisers should only take CE that has been developed to educate appraisers to maintain, increase and enhance their skill, knowledge and professional competency.

EFFECTIVE IMMEDIATELY

Appraisers renewing their licenses may no longer submit courses that have been approved by the Division for either Real Estate or Mortgage continuing education to count as Appraiser continuing education.

Pre-License Education

Important new information on pre-licensing educational requirements was included in the January 2006 newsletter. You can review this information on our website at www.realestate.utah.gov/newsletters/RE0106.pdf. The new educational requirements go into effect on January 1, 2008.

In addition to the increased pre-license education discussed in these earlier newsletters, please consider the following reminders:

When an individual takes pre-license education, credit will not be given for duplicate or highly comparable classes. Each course must represent a progression in which the appraiser's knowledge is increased.

There is currently no time limit regarding when pre-license education credit must have been obtained.

Division vs. Commission vs. Board

In the course of various conversations with Real Estate licensees it is apparent that significant confusion exists over the terms listed above. Frequent misunderstandings occur over the purposes and functions of the Division of Real Estate, the Commissions (Residential Mortgage Regulatory or Real Estate) and the Board of REALTORS®.

DIVISION

The "Division" refers to the Division of Real Estate of the Utah Department of Commerce. The Division is a government agency responsible for the administration and enforcement of statutes and administrative rules dealing with real estate, mortgage and appraiser licensing and regulation.

The Division receives applications for licensing and the renewal of licenses, and certifies education providers who offer pre-license and continuing education courses. The Division receives and acts on complaints and commences administrative or judicial proceedings. The Division, in conjunction with the Real Estate Commission, sanctions licensees.

Administrative assistance is also provided by the Division to the commissions and appraiser board, to enable them to carry out their responsibilities.

COMMISSION

The "Commission" refers to the Utah Real Estate Regulatory Commission. The Real Estate Commission that make rules regarding licensing, pre-licensing and continuing education requirements; examinations procedures, school certification funds handling and recordkeeping requirements.

The Real Estate Commission is comprised of five commission members who are appointed by the Governor and approved by the Senate. With the exception of one public member appointee, the Commissioners are Real Estate professionals. They serve on a volunteer basis and dedicate their skills to improve and enhance their professions.

Commission members are also involved in administrative hearings and in imposing sanctions against licensees. They make determinations regarding the honesty, competency, integrity, and truthfulness of each applicant for new licences and license renewals.

BOARD

The Board refers to a Board of REALTORS®. A Board of REALTORS® is a fundamental unit of the National Association of REALTORS® (NAR). The NAR is a national professional trade association that promotes the benefits of private property rights and assists its members to better serve the public by assisting licensees in training, promoting fair dealing and professional development. There are eight Boards of REALTORS® throughout the state of Utah. Membership in a Board of REALTORS® is a voluntary choice for Utah real estate licensees and not required to sell real estate in Utah. The term REALTOR® is not synonymous with being a licensed real estate salesperson.

Realtors® are required to take Quadrennial ethics training. (Don't be confused.....the Realtors® ethics training is not the Utah Division of Real Estate's required core course)

Note: Another use of the term "Board" is in reference to the Appraiser Licensing and Certification Board. This Appraisal Board is the equivalent for appraisers, as the Real Estate Commission for real estate licensees. Duties of the Appraiser Board are very similar to the responsibilities of the Real Estate Commission.

Did you know?

**Useful Information is available at
www.realestate.utah.gov**

- Not sure your CE class is DRE approved?
 - Our website lists over 690 DRE approved CE courses.
- What the Statutes and Administrative Rules say?
 - Click; About Us.
- How many hours of CE will I need to take?
 - Click; Education.
- Do you need to file a complaint?
 - Click; Enforcement.
- Where do I find a new PLM Application?
 - Click; Licensing.
- How do I apply to teach a CE course?
 - Click; Education.
- Where do I find a change card?
 - Click; Licensing (choose profession)
- How do I renew online?
 - Click; Online License Renewal.

All of these answers and more at your fingertips!

"Are You Being Realistic?"

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If buyers anticipate moving in on a weekend, thoughtful evaluation must go into when and how this deadline can be met. Emotional distress and financial consequences may be triggered when insufficient thought has gone into various contractual deadlines. For example; FHA loans paid off on the first of the month are charged a full months interest. In this instance a few days difference (end of month vs. first of month) will result in a significant financial impact on a seller.

Avoid unnecessary frustration and stress. Be careful. Be realistic. A word to the wise...Look at a calendar and factor in sufficient time to meet offer and acceptance and contract deadlines.

THANK YOU FOR YOUR HARDWORK AND DEDICATION

From all of us at the Division of Real Estate we would like to thank each of our commissioners, who have provided outstanding service to the Mortgage, Real Estate and the Appraisal Industries.

Our departing commissioners are Real Estate Chair, Dorothy M. Burnham and Vice Chair, Maralee Jensen, Mortgage Chair, A. Thompson Calder, Appraiser Chair, J. Philip Cook, and Appraiser Board Member, Jennifer Szczykowski.



DOROTHY M. BURNHAM
REAL ESTATE CHAIR

I have truly enjoyed being of service to the industry as a Commissioner. I have deep respect for the Commissioners who serve, and have come to count them as my friends. Division of Real Estate staff and leadership are of the highest quality and are dedicated to the industry at all levels. The Commission has made some great strides to upgrade the profession and improve the entry

level requirements of those desiring to obtain a license, as well as imposing directed education for new licensees in their first licensing period. I have had wonderful experiences and some tense moments at hearings, but overall have had a great learning experience.



MARALEE JENSEN
REAL ESTATE VICE CHAIR



As my tenure as a Commissioner for the Division of Real Estate comes to a close, I must admit that I am somewhat reluctant to give up the position. I have been involved in the mortgage and real estate industries for the past 20 years. During those years, I have had the opportunity to serve on many committees with various organizations. I must say, however, that the past four years spent as a Commissioner has been one of the highlights of my career.

I shall always cherish the time spent making lasting memories and relationships with those I have had the chance to work closely with. I would like to publicly thank Director Miller, the Division Staff, and the great commissioners who have helped make this such a great experience.

Perhaps a quote by Marian Wright Edelman expresses what I have seen accomplished by the Commission over the last four years; "We must not, in trying to think about how we can make a big difference, ignore the small daily differences we can make which, over time, add up to big differences that we often cannot foresee".

Once again, I am very grateful for this awesome opportunity. I appreciate those daily differences which I have seen being made over the past four years which I believe will help pave the way for bigger, better differences in the future.



A. THOMPSON CALDER
MORTGAGE CHAIR

I have had a unique opportunity to serve on both the Real Estate Commission and the Mortgage Regulatory Commission. Meetings on each have ranged from boring to very entertaining to way too stressful. Everything considered the experience has been worthwhile. What I take with me is deep appreciation for the Division of Real Estate staff. They have repeatedly made me look good as a Commissioner. As well, their hard work, dedication, and talent have made the Department the envy of many other states. I am quite comfortable leaving my appointment with such a group of fine people running the Utah Division of Real Estate.



J. PHILIP COOK
APPRAISER CHAIR

Serving on the Utah State Appraiser Board for four years has been personally rewarding, and has allowed me to closely witness the commitment Division staff and other board members have toward the appraisal profession. They work energetically and sincerely to improve the professional standards and standing of appraisers practicing in Utah. The most challenging issues the board deals with relate to cases involving individuals. Watching as the Board fairly balances the needs of individuals against the expectations of society has been most fulfilling. People tend to make judgments of others and of issues without fully understanding motivations and background. Personal involvement on the Board has enhanced my confidence in the goodwill of others, who, despite possible differences of opinion, almost always act in good faith. I will miss the camaraderie and service opportunity but recognize that others deserve the chance to serve as well.



JENNIFER SZCZYPKOWSKI
APPRAISER BOARD MEMBER

I was asked to submit a memorable experience; however it is impossible for me to limit myself to a singular event when my entire tenure with the Division was invaluable to me personally and professionally. I have thoroughly enjoyed the people I've worked with, the challenges we've overcome together and the opportunity to be part of a group dedicated to improving the overall processes.

Licensing Actions and Disciplinary Sanctions



Please note that there are 30 days after the order date for a licensee or an applicant to file a request for agency review of the order, and that there are 30 days after the issuance of an order on review for a licensee or an applicant to file a petition for judicial review. Some of the orders listed may be within those appeal periods.

APPRAISER

PETERSON, RANDY K., State-Certified Residential Appraiser, South Jordan, Utah. Agreed to pay a \$3,000.00 fine and take a USPAP course for violating USPAP provisions in three appraisals done in the year 2001 by failing to analyze current agreements of sale on the subject properties, failing to employ recognized methods and techniques, failure to properly report the listing histories of the subject properties, failing to collect, verify, analyze and reconcile all available sales data, and for stating in his reports that there had been no listing of the properties in the last 12 months although the properties had been listed in the Multiple Listing Service within the last 12 months. Mr. Peterson maintains in mitigation that since the time of the appraisals in question, he has improved his skills through further education and study. #AP01-12-29, AP02-02-08, AP03-01-21, and AP20411.

MORTGAGE



Please note that there are 30 days after the order date for a licensee or an applicant to file a request for agency review of the order, and that there are 30 days after the issuance of an order on review for a licensee or an applicant to file a petition for judicial review. Some of the orders listed may be within those appeal periods.

UTAH ASSOCIATION OF MORTGAGE BROKERS, Salt Lake City, UT. Agreed to pay a \$500.00 fine for teaching and offering continuing education credit

for teaching and offering continuing education credit for a class which had not received prior certification for continuing education credit from the Division.

CATMULL, ADAM, Mortgage Officer and Control Person, Optimum Mortgage, LLC, South Jordan, UT. License renewed on March 27, 2006 on the condition that he pay an \$8,000.00 civil penalty for violating the Residential Mortgage Practices Act by: a) false or misleading advertising signs; b) false or misleading advertising flyers; c) false or misleading advertising on a web site; and d) incorrectly answering a question on his renewal questionnaire. The advertising problems involved a "For Sale by Owner" program that was part of the business of Optimum Mortgage, LLC. Mr. Catmull's license will be suspended until the civil penalty is paid in full, and on probation for two years thereafter. #MG20943.

SCADDEN, TANNER, Mortgage Officer, Syracuse, Utah. Application to renewal denied on May 31, 2006 because of failing to comply with an Order of the Commission and the Division and because of failing to comply with two Subpoenas for production of documents from the Division. Pursuant to a stipulation Mr. Scadden signed with the Division to resolve a complaint, he agreed to pay a civil penalty to the Division by an agreed deadline, and was ordered to make that payment by the Commission and the Division. Mr. Scadden did not pay the penalty until nine months after the deadline. His testimony at his renewal hearing indicated that he did not respond to one of the Division subpoenas because he was upset with the Division. Note: at the time of publication, Mr. Scadden had requested agency review of the denial of his renewal.

OLSEN, JORGEN P., Mortgage Officer, Salt Lake City, Utah. Application for Principal Lending Manager denied, and renewed Mortgage Officer license issued in its place, on June 30, 2006 because of repeated DUI incidents while his Mortgage Officer license was already on probationary status because of earlier DUI incidents. While his mortgage officer license is on probationary status, Mr. Olsen shall provide to the Division a written acknowledgement

from any Principal Lending Manager with whom he licenses, stating that Mr. Olsen has notified the Principal Lending Manager of his probation.

SIMS, LOUIE ANTOINE, Mortgage Officer Applicant, Salt Lake City, Utah. Application for Mortgage Officer license denied on June 20, 2006 because of factors including a pattern of criminal conduct and failures to comply with court orders.

EVANS, WILLIAM A., Mortgage Officer Applicant, Tooele, Utah. Application for Mortgage Officer license denied on June 30, 2006 because of factors including a past criminal conviction for embezzling funds and making false statements to a government agency.

SAUNDER, BLAINE, Mortgage Officer Applicant, Salina, Utah. Application for Mortgage Officer license denied on June 26, 2006 because of factors including past criminal cases and failure to timely comply with court orders in those cases.

The following is a list of individuals whose mortgage licenses were revoked for failure to accurately disclose their criminal background on their initial applications.

<u>Name</u>	<u>Revocation Date</u>
Gonzalez, Robert	March 27, 2006
Furubotten, Adam	March 27, 2006
Perez, Berenice	March 27, 2006

REAL ESTATE



Please note that there are 30 days after the order date for a licensee or an applicant to file a request for agency review of the order, and that there are 30 days after the issuance of an order on review for a licensee or an applicant to file a petition for judicial review. Some of the orders listed may be within those appeal periods.

THACKER, DAVID J., Timeshare Sales Agent, Miner's Club, Park City, Utah. Agreed to pay a \$500.00 fine for working as a Timeshare Sales Agent for Miner's Club before his application for registration as a Timeshare Sales Agent was sub-

mitted to the Division and the registration was issued by the Division. #RE28024.

GRIFFEE, ADAM, Sales Agent, Salt Lake City, Utah. Agreed to pay a \$500.00 fine for renewing his license and affirming that he had taken 12 hours of continuing education, including the core course although he could not supply proof of more than 6 hours when audited by the Division. Mr. Griffie thereafter completed the core course and three more education hours. Mr. Griffie maintained in mitigation that he had proof of all of the required continuing education hours when he renewed, but that his wife did not think he needed the certificates anymore and threw some of them away while cleaning. #RE25443.

SAMPSON, BRETT, Sales Agent, RE/Max First Realty, St. George, Utah. Agreed to pay a \$500.00 fine and complete an agency course for failing to deliver an earnest money deposit to his principal broker for deposit within 3 banking days after acceptance of the offer. Mr. Sampson acted as a limited agent for both buyer and seller in a transaction and receipted an earnest money deposit on October 9, but did not turn the REPC and earnest money check into his brokerage until November 5. The check failed to clear when deposited by the brokerage. Mr. Sampson maintained in mitigation that he could not get the sellers to sign the listing agreement until November 5, and he thought that he had to turn the listing agreement and the REPC and earnest money in to the brokerage at the same time. #RE03-01-10.

JEPPSON, KEITH, Sales Agent, Realty Executives of Utah, Midvale, Utah. Agreed to pay a \$500.00 fine and complete the Division's Trust Account Seminar for receipting earnest money that he did not receive. Mr. Jeppson relied on a buyer's representation that she had wired funds to the brokerage's trust account and instructed a brokerage assistant to sign his name to the receipt portion of the REPC. Mr. Jeppson maintained in mitigation that he also relied on the brokerage with which he was licensed to monitor whether or not the funds were deposited to the

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account, and that he expected that his brokerage would tell him immediately if the funds had not been wired to the trust account. #RE26203.

FREI, KENT., Associate Broker, Santa Clara, Utah. Agreed to pay a \$1,100.00 fine for renewing his license and affirming that he had completed 12 hours of continuing education, including the core course, although when audited by the Division he could only produce proof of completion of 3 hours. Mr. Frei subsequently took the Division core course and 7 more education hours. Mr. Frei maintained in mitigation that he was confident that he had completed his continuing education, and that he did not know until he received the Division's audit letter that he was missing course completion certificates for the required number of hours. #RE28278.

KALLAS, C. ROBERT, Sales Agent, Lindon, Utah. Agreed to pay a \$1,400.00 fine for renewing his license and affirming that he had completed 12 hours of continuing education, including the core course, when he had not completed the education. Mr. Kallas subsequently completed 12 hours, including the core course. Mr. Kallas maintained in mitigation that continuing education certificates for 12 hours of education completed in the 2 years prior to his renewal date were accidentally used for his renewal although they had already been used for a late renewal of his license previously. #RE25447.

BINGHAM, ERIC D., Principal Broker, Vision Real Estate, Orem, Utah. Agreed to pay a \$500.00 fine and complete an agency course for failing to exercise reasonable supervision over his licensees and unlicensed staff. A sales agent whose license had expired assisted Mr. Bingham with a real estate transaction by conveying information between Mr. Bingham, the seller, and the buyer, answering phone calls concerning the transaction, conveying to the buyer answers to questions the buyer was asking, and instructing the buyer to sign a counter offer, among other things. #RE27568.

CLAYTON, KANDY, Principal Broker, Clayton & Associates Real Estate, Sandy, Utah. Agreed to pay a \$500.00 fine and complete an agency course for violating Administrative Rule R162-4.1.4.2, which requires the principal broker or the broker's authorized representative to attend all closings. Ms. Clayton represented buyers in the sale of their existing home and their efforts to purchase a new home. The buyers contracted to purchase a new home on their own, and a dispute developed between them and Ms. Clayton over the real estate commission to be paid to Ms. Clayton on the new home purchase. Ms. Clayton maintains that she had intended to attend the closing of the new home purchase but did not because of family concerns. #RE27291.

SMITH, GREGORY W., Sales Agent, Orem, Utah. Agreed to pay a \$500.00 fine for renewing his license and affirming that he had completed 12 hours of qualified continuing education, including the core course. An audit of his continuing education indicated that he had taken 18.5 hours of education in the two years preceding renewal, but those hours had not been approved by the Division for continuing education purposes and did not include the core course. Mr. Smith subsequently completed the Division's core course and applied for, and received, continuing education credit for the 18.5 hour course. #RE24360.

WILLETS, JED F., Sales Agent, @Home Realty Network, Logan, Utah. Agreed to pay a \$500.00 fine for breaching a fiduciary duty to a principal in a real estate transaction by giving a key to a property to the buyer prior to closing. The buyer had requested the key to show the basement apartment in the home to prospective tenants. The sellers complained to the Division that the buyer had posted a sign in the yard of the home before closing and showed the home to at least three parties prior to settlement. #RE25884.

KEDDINGTON, ROBERT T., Sales Agent, Sandy, Utah. Agreed to pay a \$300.00 fine for renewing his license and affirming that he had completed 12 hours

of qualified continuing education, including the core course, although upon audit he could only supply course completion certificates for 9 hours. Mr. Keddington maintained in mitigation that he had completed 15 hours of continuing education but was unable to find his certificates because he had moved. He subsequently completed the Division's core course. #RE24856

HUGHES, CATHERINE, Sales Agent, Sandy, Utah. Agreed to pay a \$100.00 fine for renewing her license and affirming that she had completed 12 hours of qualified continuing education, although she only had certificates to prove completion of 11 hours. Ms. Hughes maintained that at the time of her renewal, she thought she had taken 12 hours and did not discover until she was submitting her certificates for audit by the Division that they only added up to 11 hours. She agreed to complete the missing hour of continuing education. #RE25958.

DEVENNEY, KATHY, Sales Agent, Salt Lake City, Utah. Agreed to pay a \$500.00 fine for renewing her license and affirming that she had completed 12 hours of continuing education, including the core course, although on audit she only had 9 hours worth of certificates to submit as proof of continuing education. Ms. Devenney maintained that, in addition to those 9 hours, she had also taken the core course, but that she could not find the course completion certificate from the core course. She subsequently completed the Division core course. #RE23894.

GILMORE, DIRK R., Sales Agent, Woods Cross, Utah. Agreed to pay a \$500.00 fine for failing to report a conviction for Alcohol Related Reckless Driving to the Division in writing within ten business days of conviction. #RE28925.

PHILLIPS, SETH M., Sales Agent, David C. Clark & Associates, Inc., Sandy, Utah. Agreed to pay a \$300.00 fine for making a misrepresentation by omission by mistakenly providing buyers with the CC&R's to an adjacent development instead of the CC&R's that applied to the subdivision he was marketing. #RE28175.

RUMSEY, DARRINT., Sales Agent, Ogden, UT. Agreed to pay a \$500.00 fine for renewing his license without having completed the Division's Core Course. After the Division audited his continuing education, Mr. Rumsey completed the Core Course, which will be applied retroactively to his 2005 renewal. #RE25979

ORTON, DANIEL J., Sales Agent, Salt Lake City, UT. Agreed to pay a \$1,400.00 fine for renewing his license and affirming that he had completed the required 12 hours of continuing education and then being unable to submit any continuing education certificates when his continuing education was audited by the Division. Mr. Orton subsequently completed 12 hours of continuing education, which was applied retroactively to his 2005 renewal. #RE25955.

CRELLIN, JAMES K., Sales Agent, Salt Lake City, UT. Agreed to pay a \$500.00 fine for accepting commissions from other than the principal broker with whom he was licensed. At the settlement of a transaction in which he purchased a property on his own behalf, the commission to be paid to the brokerage with which he was licensed was credited to Mr. Crellin's purchase price. In mitigation, Mr. Crellin maintains that he was a co-owner of the brokerage, and that the principal broker had agreed that Mr. Crellin would receive 100% of the commissions on his own personal transactions. #RE26400

LYONS, BONNIE, Principal Broker, Morgan, UT. Agreed to pay a \$2,000.00 fine for violating the administrative rule stating that real estate licensees have an affirmative duty to disclose in writing to buyers and sellers the existence or possible existence of a due-on-sale clause. Ms. Lyons maintained that when the sellers decided to do a contract sale, it was their responsibility to contact their mortgage company and determine if a contract sale was acceptable to the mortgage company. In mitigation, this transaction occurred when Ms. Lyons was a sales agent. #RE20195

KELSTROM, DOYLE, Sales Agent Applicant, Brigham City, UT. Application for a sales agent license denied in an April 26, 2006 Order because of factors including a plea to Grand Larceny, an incest conviction, a felony Sexual Abuse of a Child conviction, and the fact that he currently appears in the Utah Sex Offender Registry.

PETERSEN, CELESTINE R., Sales Agent, South Weber, UT. Ms. Petersen surrendered her sales agent license effective May 17, 2006, and agreed not to apply for a new license for at least three years, based on her May 3, 2006 surrender of her Utah mortgage broker license. The Division alleged that, beginning in the first quarter of 2004 and ending in the third quarter of 2005, Ms. Petersen originated seven owner-occupied mortgage loans for a husband and wife team, six of which mortgages were used to purchase investment properties. #RE29018

HAUN, LYNDEN R., Sales Agent Applicant, Salt Lake City, UT. License application approved on probationary status for the term of his initial license in a May 8, 2006 Order because of factors including an obligation to repay an overpayment of unemployment benefits and a civil penalty owed to the Utah Dept. of Workforce Services. The probationary license granted to Mr. Haun will be suspended until the payments are made in full. During the probationary period, Mr. Haun will be required to inform any principal broker with whom he licenses of his probationary status and submit to the Division a written acknowledgement from each such broker that the disclosure has been made.

HEMSETH, OK, Sales Agent Applicant, South Jordan, UT. License application approved on probationary status for two years in a May 8, 2006 Order because of factors including a sanction against his Utah insurance license. During the probationary period, Mr. Hemseth will be required to inform any principal broker with whom he licenses of his probationary status and submit to the

Division a written acknowledgement from each such broker that the disclosure has been made.

MORAN, CAMILLE C., Sales Agent Applicant, Bountiful, UT. License application approved on probationary status for two years in a May 15, 2006 Order because of factors including a September 15, 2005 DUI conviction and the fact that she was still on probation in that case. During the license probation, Ms. Moran will be required to inform any principal broker with whom she licenses about her DUI and her license probation and to submit to the Division a written acknowledgement from each such broker that the disclosure has been made.

MORGAN, THOMAS LUKE, Sales Agent Applicant, Midvale, UT. License application approved on probationary status for two years in a June 1, 2006 Order because of factors including pleas in abeyance to Speeding, Violation of Conditional License (Driving with Alcohol in Body) and Expired Registration. During the probationary period, Mr. Morgan is to provide a written acknowledgement from any broker with whom he proposes to license that he has notified the broker that his license is on probationary status.

ANDERSON, AARON, Sales Agent Applicant, Orem, UT. License application approved on probationary status for two years in a June 1, 2006 Order because of factors including past DUI, Open Container, and Possession convictions. During the probationary period, Mr. Anderson is to provide a written acknowledgement from any broker with whom he proposes to license that he has notified the broker that his license is on probationary status.

RIP, DANIEL, Sales Agent, Bountiful, UT. Agreed to pay a \$200.00 fine for renewing his license and affirming that he had completed 12 hours of qualifying continuing education. One of the courses that Mr. Rip counted was not approved for continuing education credit for real estate licensees although it was approved for continuing education credit for mortgage licensees.

continued on page 15

Mr. Rip subsequently completed an additional course that was approved for real estate continuing education credit. #RE28279

HESELTINE, JILL A., Sales Agent, Bluffdale, UT. Agreed to pay a \$1,400.00 fine for renewing her license and affirming that she had completed 12 hours of qualifying continuing education that could not be substantiated when the Division audited her continuing education. She subsequently completed 12 hours of approved continuing education, including the Division Core Course. #RE23351

MONSON, EDWARD T., Sales Agent, Eden, UT. Agreed to pay a \$900.00 civil penalty for renewing his license and affirming that he had completed 12 hours of qualifying continuing education, including the Division Core Course. When his continuing education was audited by the Division, Mr. Monson submitted proof of completion of 5 qualifying hours and an additional 16-hour course that had not been approved by the Division for continuing education purposes. Mr. Monson subsequently obtained approval of the 16-hour course and completed the Division's core course. #RE27408

MAHON, ELIZABETH A., Sales Agent, Park City, UT. Agreed to pay a \$1,400.00 fine for renewing her license and affirming that she had completed 12 hours of continuing education. The Division audit of her continuing education indicated that she had not taken any continuing education in the two years preceding her renewal. Ms. Monson subsequently completed 12 hours of approved continuing education, including the Division's Core Course. #RE29360

SMITH, JASON A., Inactive Sales Agent, Las Vegas, NV. Agreed to pay a \$500.00 fine and complete an agency course for violating the licensing law by performing activities that required a license between the time that his previous license expired and the time that he applied for and obtained a new sales agent license. #RE22173

The following is a list of individuals whose sales agent licenses were revoked for failure to accurately disclose their criminal background on their initial applications.

<u>Name</u>	<u>Revocation Date</u>
William Thomas Livingston	February 3, 2006
Michelle T. Skipps	February 3, 2006
Timothy S. Haws	March 20, 2006
Machele T. Huckabee	March 27, 2006

Licensee Statistics

As of June 30, 2006

• REAL ESTATE

Sales Agents.	17,989
Principle Brokers.	2,545
Associate Brokers.	1,215
Branch Brokers.	191
Dual Brokers.	76
Property Management Brokers.	24
Real Estate Companies.	2,292
Pre-license Schools.	12
Pre-license Instructors.	45
CE Providers.	335
CE Courses.	658

• MORTGAGE

Mortgage Offices.	8,756
Principal Lending Managers.	1,026
Associate Lending Managers.	106
Mortgage Companies.	1,499
Pre-license Schools.	15
Pre-license Instructors.	54
CE Providers.	55
CE Instructors.	104
CE Courses.	309

• APPRAISERS

Certified General Appraisers.	353
Certified Residential Appraisers.	655
Licensed Appraisers.	171
Trainees.	390

CLARIFICATION

In our April, 2006 newsletter we reported that the license of Karl Davis had been revoked. The Division would like to clarify that it was sales agent Karl E. Davis of South Jordan whose license was revoked, and not principal broker Karl D. Davis of Nibley, Utah.

Mortgage Officers Take Heed Payment, Loan Origination and Supervision by PLM

Do you know who your PLM is? Are you being supervised and paid by your PLM? How does this PLM requirement effect licensed mortgage officers?

As you are now all aware, each mortgage entity was required to have an affiliated actively licensed Principal Lending Manager (PLM) as of May 1, 2006. This article describes how this new requirement effects individual mortgage officer licenses.

Over 600 licensed mortgage companies and over 700 licensed mortgage officers have had their licenses inactivated due to not having a PLM affiliation. Utah state law indicates that since May 1, 2006, ALL licensed mortgage officers must be supervised, paid, and originate loans through a PLM (see Utah Code 61-2c-201 (5), (8) and (9)). In addition, **if the company you work for does not have a PLM, you cannot hold an active license.**

Those holding an inactive license may not transact the business of residential mortgage loans. Violating this law by engaging in "unlicensed activity" will result in serious administrative and possible civil/criminal penalties.

Those whose licenses have been inactivated must submit a change card and an activation fee of \$15.00 to the Division with the name and signature of the licensed PLM under whom you will conduct business. Change cards can be found on the Division's website at www.realestate.utah.gov.

IMPORTANT REMINDER

Mortgage officers (whose licenses have been inactivated) cannot transact the business of residential mortgage loans until the Division receives and processes your completed change card and your license has been reactivated.

Confirmation of Agency Disclosure

(Follow-up to Article in April 2006 Utah Division of Real Estate News)

The April edition of The Utah Real Estate News (Volume 1 - Number 2), contained an article on paragraph 5 of the Real Estate Purchase Contract (REPC) dealing with disclosure. That article spurred additional discussion between the Division, the Real Estate Commission and the real estate industry. The article exposed a difference in the intended purpose in the disclosure provision contained in paragraph 5, and a common industry practice of including the name of the real estate brokerage or the name of the principal broker.

Based on those discussions, the Commission decided to pursue a modification to the REPC to include either the brokerage or the name of the principal broker in paragraph 5. A rule to this effect has been drafted and is receiving public comment. Until the REPC and this rule both become effective, the Division does not object to placement of either the name of the brokerage or the name of the principal broker in paragraph 5 of the REPC (Confirmation of Agency Disclosure).

Probationary License... What Does That Mean?

As one reads this and earlier editions of The Utah Real Estate News, there are a number of disciplinary actions that have been reported regarding licensees. Prior to publication in a newsletter either a formal action by a Commission or Board has occurred, or a stipulated settlement has been reached between the Division and the licensee. Licensees that have been placed on probation receive a license that reflects their probationary status. Brokers/PLM's should pay attention to the status of the licensees that they are required to supervise. Close scrutiny and collection of current "wall licenses" for review, would be advisable.

Part of supervision entails reviewing the status of those individuals that have been placed on disciplinary status by the Division. A Broker/PLM should review the licensing status of each of his licensees. A data search of the Division website will reveal if any licensee holds a license other than "active".

The licensee should provide stipulations and orders to supervisory Brokers/PLM's to inform them of any disciplinary actions taken involving their licenses.

Brokers/PLM's that have a licensee that has been disciplined by the Division should not merely take the verbal explanation from the licensee as to the circumstances and events resulting in the sanction. A copy of the stipulated settlement provided by the licensee would provide the Broker/PLM with detail that they might not otherwise receive.

Monitoring licensee activities and past disciplinary actions will help to provide Brokers/PLM's *the rest of the story.*



Allyn Stutsman has a supporting role as the Enforcement Secretary to the Investigators in the Division. She fields questions regarding cases, how the investigative process works, and tracks pending cases.

Allyn came to the Division in October of 1993 as an assistant to the Education Director. Because of her ability to perform assignments and tasks so quickly she was asked to take on additional responsibilities. She has acted as a Board Secretary for the Real Estate and Appraisal Boards. Originally, she assisted 4 Investigators but the number has now grown to an enforcement team of 10. She has had an active role in redeveloping enforcement reports and procedures and is very much appreciated by her co-workers. Her supervisors refer to her as "Radar O'Riley" because of her ability to find lost items, track files, create reports and make them look like they are on top of everything.

Allyn is the mother of two and grandmother of three beautiful granddaughters, Emmaline, Mikayleigh and Kendra who are quite obviously her "BIGGEST JOY". Allyn enjoys scrap booking, gardening and reading in her free time. As I interviewed Allyn, I found she is a "Rebel with a cause" and she is dedicated to her fellow employees. While working at the Division she has learned to have a better appreciation for government employees and respects the knowledge they must obtain to do their jobs. She speaks from the heart when she says her favorite part of her job is the people.

Thanks Allyn

Division of Real Estate

Know your Division terms.....

R X S E A C S S J Z N S Q B I K N H V D W N R R P S
 F E L E J S T N F T D W R S E H R H I P D L E S R E
 M L S B L A S A O N I A S Y Q E C V B N M G K D E E
 C O V I T U Y O U I N M E R S N I Z Z O A C O R L N
 T O R U A K R O C C S A E I V S Z P L N R W R A I I
 Y M T T O R R E H I O S A S I K B N A D E Y B O C A
 K E T B G G P B V P A R I O H O E M E G I S T B E R
 S M I D P A R P S I P T N M D A G T T Z N U N J N T
 G U X M V O G F A P T O E N M N R I Z C S I E H S R
 T Y A E K X R E A L F A U B I O X E C H T N M G I E
 A C S E R Y Y D L R A C R D R I C T S A A O E N N S
 R N R I L E E U E E L R N T D O L X C N T I G Q G I
 T P D K Y S X A S H N E E E S J K D C G E T A W E A
 J F S K N O L K A F L D G N D I T E U E M A N Q D R
 L A W E N E R E M L C D E K E T N O R C E C A H U P
 Q V C O S S L F A R Y N D R W G S I G A N I M X C P
 V I L T O S L P R X Y E K F O S D I M R T L Y X A A
 L W A S N O I S I V I D B U S F L E Z D K P T F T F
 T T J X R C A V X U N B M O W D F K I P A P R Y I P
 E P R I N C I P A L B R O K E R E I M F L A E H O L
 Q E R I Q K G T S M M V J Y U A W R C P I X P V N F
 N O R X B A U Z R X M I X Q C B Y D I E B T O A U Q
 T P T I G W N A E I V J R L W E V V N P R E R E P X
 N O I T A C U D E G N I U N I T N O C F X Q P E X D
 A S S O C I A T E L E N D I N G M A N A G E R M C M
 S A L E S A G E N T T R R R A O B M R M X J G H Y X

ADMINISTRATIVE RULES
 APPLICATION
 APPRAISER TRAINEES
 ASSOCIATE BROKER
 ASSOCIATE LENDING MANAGER
 BOARDS
 BRANCH BROKER
 CAMPGROUNDS
 CERTIFIED GENERAL APPRAISER
 CHANGE CARD
 COMMISSIONS
 CONTINUING EDUCATION
 DIVISION OF REAL ESTATE

EXPIRED
 LICENSED APPRAISER
 MORTGAGE LENDER OFFICER
 PRELICENSING EDUCATION
 PRINCIPAL BROKER
 PRINCIPAL LENDING MANAGER
 PROPERTY MANAGEMENT BROKER
 REINSTATEMENT
 RENEWAL
 SALES AGENT
 STATUTES
 SUBDIVISIONS
 TIMESHARES

-APPRAISERS- REPORTING OF SALES HISTORY (USPAP vs. Supplemental Standards)

By

Craig Morley, Member Utah Appraiser & Certification Board

Uniform Standards of Professional Appraisal Practice (USPAP) Standard Rule 1-5(a) analyze all agreements of sale, options, listings of the subject property current as of the effective date of the appraisal; and 1-5(b) analyze all sales of the subject property that occurred within three years prior to the effective date of the appraisal.

The state of Utah has a supplemental standard (Administrative Rule R162-106-7 – Sales and Listing History) that requires **listings** of the subject property **within the past three years to be analyzed and reported** (if such information is available to the appraiser from the multiple listing service, listing agent(s), or the property owner), which is otherwise not required by USPAP.

Many appraisers do work where additional supplemental standards are required. Any appraiser using the residential forms adopted by Fannie Mae in March of 2005, have a one-year listing history requirement for the subject property. However, you must do a three-year listing history to comply with the current rules from the state of Utah.

Fannie Mae has supplemental standards that exceed those required by the State of Utah and by USPAP for the comparable sales. Those standards require a one-year sales history for the comparable sales from the date of the reported sale. No listing history is required for the comparable sales by Fannie Mae or by the State of Utah.

Utah! DIVISION *of* REAL ESTATE NEWS

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CONGRATULATIONS!

Karen Post former Division Licensing/Education Director (1983 to 2001) was honored at the Real Estate Educators Association's Annual Conference in Las Vegas, Nevada. Karen was awarded the Distinguished Career Service Award for 2006. Kudos to Karen Post for receiving this prestigious award!



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